

EVA MCGHEE
WILLIAM J. BOTT

IBLA 80-963
81-76

Decided June 26, 1981

Appeals from decisions of the Montana State Office, Bureau of Land Management, dismissing protests to rejection of simultaneous oil and gas lease offers M-48597, etc.

Reversed and remanded.

1. Accounts: Payments -- Oil and Gas Leases: Generally

A cashier's check is an acceptable form of remittance for payment of the filing fee accompanying a simultaneous oil and gas lease offer under 43 CFR 3112.2-2. A cashier's check is a draft drawn by a bank upon itself, issued by an authorized officer of a bank, and directed to another person. Where a check submitted as a filing fee appears on its face to be a valid cashier's check, a Bureau of Land Management decision refusing such a check will be reversed and the case remanded to BLM.

APPEARANCES: Eva M. McGhee and William J. Bott, pro sese.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Eva M. McGhee and William J. Bott appeal from decisions of the Montana State Office, Bureau of Land Management (BLM), dated September 12 and September 25, 1980, dismissing protests to BLM's rejection of their simultaneous oil and gas lease offers. 1/ BLM rejected

1/ Eva McGhee's lease offer numbers are: M 48597, M 48600, M 48631, and M 48686. William J. Bott's lease offer numbers are: M 48645, M 48659, and M 48665.

the offers because it found the remittance to be unacceptable under 43 CFR 3112.2-2.

McGhee filed four drawing entry cards dated July 18, 1980, for the July 1980 simultaneous oil and gas lease drawing. A check drawn on the First National Bank of Denver for \$40 to cover the filing fee accompanied McGhee's drawing entry cards. Bott filed three drawing entry cards for the same drawing. A check for \$30 drawn on the First Union National Bank of Winston-Salem accompanied his drawing entry cards. On August 22, 1980, BLM returned the drawing entry cards and filing fee because it found the remittance to be unacceptable and stated: "(Ref 43 CFR 3112.2-2) The filing fee shall be paid in U.S. currency, Post Office or bank money order, bank cashier's check or bank certified check."

Both appellants protested BLM's action of returning the checks. BLM dismissed the protests, again citing the regulation. In her appeal, appellant McGhee states that the remittance forwarded with the filings meets the requirements of the regulations, "being a Cashier's Check from the First National Bank of Denver signed by that bank's cashier." Appellant McGhee enclosed a copy of a letter from First National Bank of Denver to BLM which reads as follows:

A number of customers of the First National Bank of Denver have advised us that our standard Bank Cashier's checks issued to the Bureau of Land Management for years was rejected by your office in connection with the Simultaneous Filings in Montana on BLM tracts from the period July 1, 1980, to July 22, 1980. As a result, our customers were denied the right to participate in those drawings for that month.

My purpose in writing is to emphasize that the checks issued by First of Denver for its customers are cashier's checks, signed by this Bank's Cashier. We have been informed by legal counsel that these items clearly meet the legal definition of a cashier's check -- namely, that a cashier's check is a check drawn by a bank upon itself. There is no legal requirement that a cashier's check bear the identifying label "cashier's check."

It is our understanding that several or all of our customers adversely impacted by the BLM's rejection of our cashier's checks are in the process of protesting the BLM's action. Should you desire any additional supporting documentation or information please contact me directly. First of Denver stands ready to be of any assistance to our impacted customers and the BLM in rectifying this situation

In his statement of reasons, appellant Bott contends that he requested a cashier's check from his bank which he forwarded to the BLM office. He says that his bank prepares cashier's checks labeled "Official Check." He notes that BLM accepted his "Official Check" and

has the remittance which confirms the validity of this instrument. McGhee refers to a BLM memorandum dealing with acceptable forms of remittance for simultaneous oil and gas filing fees. Bott encloses a BLM "Notice to the Public" relating to the same subject. Both documents contain the following definition of cashier's check:

These are checks drawn on and issued by a bank, signed by its cashier, assistant cashier, or other authorized bank official. They may be annotated with terms such as "Cashier's Check," "Teller's Check" or "Official Check." As long as the check is drawn on the assets of the bank and signed by an authorized bank employee, it may be accepted as a Cashier's Check.

Both appellants request new drawings to include their drawing entry cards.

[1] A copy of the check submitted by appellant McGhee shows that it is a check drawn by the First National Bank of Denver upon itself for \$40, signed by an authorized officer of the bank with the Bureau of Land Management as payee. The letter from the bank to BLM verifies that the check was a cashier's check. Similarly, a copy of the check submitted by appellant Bott shows that it was drawn by the First Union National Bank upon itself for \$30, signed by an authorized officer and made payable to the Bureau of Land Management. The words "OFFICIAL CHECK" appear on the face of the instrument, as described in BLM's notice. A cashier's check is an acceptable form of remittance under 43 CFR 3112.2-2. This regulation does not specify what constitutes a cashier's check. Appellants' checks do meet the criteria for "cashier's check" set forth in Anderson, Uniform Commercial Code, § 3-104:18 (2 ed. 1971) which reads as follows:

§ 3-104:18. Cashier's check.

A cashier's check is a draft drawn by the bank upon itself which is accepted by the act of issuance. While the only apparent or basic or factual difference between a cashier's check and the ordinary check is that the ordinary check is drawn on one other than the drawer, while in a cashier's check both the drawer and the drawee are the same, there are certain differences. A cashier's check is a primary obligation of the bank, rather than of the depositor as is the case in an ordinary check, and is an obligation to pay which ordinarily cannot be countermanded. It is issued by an authorized officer of a bank, directed to another person, evidencing the fact that the payee is authorized to demand and receive from the bank, upon presentation, the amount of money represented by the check.

A check which appears on its face to be a valid cashier's check is an acceptable form of remittance under 43 CFR 3112.2-2 and a BLM

decision refusing to accept such check will be reversed. Oxy Petroleum, Inc., 52 IBLA 239 (1981). These cases are remanded to BLM for a reselection in accordance with the procedures set forth in 43 CFR 3112.3-2.

Therefore, in accordance with the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are reversed and remanded to BLM for action consistent with this decision.

James L. Burski
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Gail M. Frazier
Administrative Judge

